THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.6084 of 2007

29.3.2007

Between:

Nallamilli Madhu Venkata Reddy, S/o.Krishna Reddy
And another

… Petitioners

AND

The Joint Collector, East Godavari District at Kakinada
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

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ORDER:

The petitioners herein purchased an extent of Acs.0.80 in survey Nos.8/1 and 8/2 from Nallamilli Seethamalakshmi, W/o.N.Venkata Reddy, who was the original owner of the land. She claimed to have acquired alienable rights under a registered settlement deed executed by N.Venkata Reddy, in respect of the land admeasuring Acs.1.97 in survey Nos.8/1 and 8/2 in favour of respondents 3 to 6 giving life interest to his wife Seethamalakshmi. Be that as it is, the petitioners approached the Mandal Revenue Officer, Pedapudi Mandal (MRO), and obtained Pattadar Pass Books (PPBs) and title deeds in 2001. Respondents 3 to 6 preferred appeal before the second respondent, who by order dated 15.5.2006 cancelled the PPBs issued in favour of the petitioners. Aggrieved by the same order, the petitioners preferred a revision under Section 9 of the A.P. Rights in Land and Pattadar Pass Books Act, 1989, before the first respondent. The revision petition was dismissed observing that Seethamalakshmi had only life interest by reason of the settlement deed dated 07.4.1988 and she had no right to alienate the property and, therefore, the petitioners cannot claim any title from her. The order of the Joint Collector is assailed in the writ petition.

Learned Counsel for the petitioners submits that the first respondent failed to appreciate the effect of subsections (1) and (2) of Section 14 of the Hindu Succession Act, 1956 (the Act, for brevity) and that he would urge that the limited right under the settlement deeds gets enlarged into absolute right under section 14(1) of the Act and, therefore, the sale by her in favour of the petitioners is valid.

A perusal of the order passed by the second respondent and the order passed by the first respondent would show that both the authorities appreciated the factual background and applied law correctly. It was noticed that Nallamilli Venkata Reddy executed registered settlement deed dated 07.4.1988 in favour of respondents 4 to 6 with a specific

covenant that they would get vested remainder after the life of Seethamalakshmi, W/o.Venkata reddy, and that she was given only life interest to enjoy the property during her lifetime without any right to alienate the property. The question therefore was whether under Section 14(1) of the Act, the limited right given to Seethamalakshmi gets enlarged.

Section 14 of the Act reads as under.

> **14. Property of a female Hindu to be her absolute property.-**
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> (1) Any property possessed by a female Hindu, whether acquired before or after the commencement of this Act, shall be held by her as full owner thereof and not as a limited owner.
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> *Explanation.*- In this sub-section, "Property" includes both movable and immovable property acquired by a female Hindu by inheritance or devise, or at a partition, or in lieu of maintenance or arrears of maintenance, or by gift from any person, whether a relative or not, before, at or after her marriage, or by her own skill or exertion, or by purchase or by prescription or in any other manner whatsoever, and also any such property held by her as stridhana immediately before the commencement of this Act.
>
> (2) Nothing contained in sub-section (1) shall apply to any property acquired by way of gift or under a will or any other instrument or under a decree or order of a civil court or under an award where the terms of the gift, will or other instrument or the decree, order or award prescribe a restricted estate in such property.

On plain language of Section 14(2) of the Hindu Succession Act, Section 14(1) of the Hindu Succession Act does not apply if the property is acquired by way of gift, Will or under a decree. Be it noted that where a female Hindu acquires the property with restricted right, such right does not get enlarged as absolute right under Section 14(1) of the Hindu Succession Act. This is a well-settled law. A reference may be made to the decision of the Supreme Court in **Nazar Singh v. Jagjit Kaur**[1], wherein in para 8, it was held as under,

> 8. Section 14 and the respective scope and ambit of sub-sections (1) and (2) has been the subject matter of a number of decisions of this Court, the most important of which is the decision in V.Tulasamma v. V.Sesha Reddi (1977) (3) SCC 99: (AIR 1977 SC 1944)*. The principles enunciated in this decision have been reiterated in a number of decisions later but have never been departed from. According to this decision sub-section (2) is confined to cases where property is acquired by a female Hindu for the first time as a grant without any preexisting right under a gift, will, instrument, decree, order or award, the terms of which prescribe a restricted estate in the property. It has also been held that where the property is acquired by a Hindu female in lieu of right of maintenance inter alia, it is in virtue of a pre-existing right and such an acquisition would not be within the scope and ambit of sub-section (2) even if the instrument, decree, order or award allotting the property to her prescribes a restricted estate in the property…

The first respondent has correctly appreciated the legal position while dismissing the revision petition filed by the petitioners and the

same does not warrant interference.

The writ petition, with the above observations, is accordingly dismissed. No costs.

(**V.V.S.RAO, J**)

March 29, 2007.
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[1] AIR 1996 SC 855